

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Casey McCann	Team: Squad #14	CCRB Case #: 201907662	<input checked="" type="checkbox"/> Force <input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> Discourt. <input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> U.S. <input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 08/17/2019 11:12 PM, Saturday, 08/17/2019 11:12 PM, Sunday, 08/18/2019 1:10 AM	Location of Incident: Marcy Houses; Tompkins Houses; 79th Precinct stationhouse		18 Mo. SOL 10/4/2021		Precinct: 79
Date/Time CV Reported Sat, 08/17/2019 11:14 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 08/28/2019 10:51 AM		

Witness(es)	Home Address		
[REDACTED]			
Subject Officer(s)	Shield	TaxID	Command
1. Officers			Unknown
2. An officer			Unknown
3. SGT Michael Kreismar	01611	928598	PSA 3
4. POM Kevin Lynch	05413	958850	PSA 3
5. SGT Robert Beierle	03867	932313	PSA 3
6. POM Dijen Roy	29576	967312	PSA 3
7. POM Nicholas Hom	07739	951826	079 PCT
8. SGT Alex Ramos	01480	947941	PSA 3
9. SGT Jhonnatan Sanchezpena	03779	947455	PSA 3
Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Cory Levy	19666	958812	PSA 3
2. POM Christophe Francis	10068	965108	PSA 3
3. POM John Brennan	24668	959509	PSA 3
4. POM Ruben Felipecardenas	11695	941739	PSA 3
5. POM Luis Sandres	04509	964752	PSA 3
Officer(s)	Allegation		Investigator Recommendation
A . An officer	Abuse: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, an officer interfered with § 87(2)(b) [REDACTED] use of a recording device.		[REDACTED]
B . An officer	Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, an officer used physical force against § 87(2)(b) [REDACTED]		[REDACTED]
C . Officers	Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, officers used physical force against § 87(2)(b) [REDACTED]		[REDACTED]
D . Officers	Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, officers used pepper spray against § 87(2)(b) [REDACTED]		[REDACTED]
E . Officers	Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, officers used pepper spray against § 87(2)(b) [REDACTED]		[REDACTED]
F . Officers	Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, officers used pepper spray against § 87(2)(b) [REDACTED]		[REDACTED]
G . Officers	Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, officers used pepper spray against § 87(2)(b) [REDACTED]		[REDACTED]
H . Officers	Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, officers used pepper spray against § 87(2)(b) [REDACTED]		[REDACTED]
I . Officers	Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, officers used pepper spray against § 87(2)(b) individuals.		[REDACTED]
J . SGT Robert Beierle	Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, Sergeant Robert Beierle used pepper spray against § 87(2)(b) [REDACTED]		[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
K . SGT Jhonnatan Sanchezpena	Discourtesy: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, Sergeant Jhonnatan Sanchezpena spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
L . SGT Jhonnatan Sanchezpena	Abuse: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, Sergeant Jhonnatan Sanchezpena threatened § 87(2)(b) [REDACTED] with the use of force.	[REDACTED]
M . An officer	Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, an officer used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
N . An officer	Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, an officer used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
O . Officers	Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, officers used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
P . An officer	Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, an officer used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
Q . Officers	Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, officers used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
R . Officers	Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, officers used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
S . SGT Alex Ramos	Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, Sergeant Alex Ramos used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
T . Officers	Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, officers used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
U . Officers	Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, officers used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
V . Officers	Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, officers used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
W . Officers	Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, officers used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
X . Officers	Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, officers used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
Y . An officer	Abuse: On August 17, 2019, at the 79th Precinct stationhouse, an officer did not obtain medical treatment for § 87(2)(b) [REDACTED]	[REDACTED]
Z . Officers	Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, officers used physical force against individuals.	[REDACTED]
AA. SGT Michael Kreismer	Discourtesy: On August 18, 2019, in the vicinity of the Tompkins Houses in Brooklyn, Sergeant Michael Kreismer spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
AB. SGT Michael Kreismer	Abuse: On August 18, 2019, in the vicinity of the Tompkins Houses in Brooklyn, Sergeant Michael Kreismer threatened § 87(2)(b) [REDACTED] with the use of force.	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
AC. SGT Michael Kreismer	Off. Language: On August 18, 2019, in the vicinity of the Tompkins Houses in Brooklyn, Sergeant Michael Kreismer made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)	[REDACTED]
AD. SGT Michael Kreismer	Discourtesy: On August 18, 2019, in the vicinity of the Tompkins Houses in Brooklyn, Sergeant Michael Kreismer spoke courteously to § 87(2)(b)	[REDACTED]
AE. An officer	Force: On August 18, 2019, in the vicinity of the Tompkins Houses in Brooklyn, an officer used pepper spray against § 87(2)(b)	[REDACTED]
AF. An officer	Force: On August 18, 2019, in the vicinity of the Tompkins Houses in Brooklyn, an officer used pepper spray against § 87(2)(b)	[REDACTED]
AG. An officer	Force: On August 18, 2019, in the vicinity of the Tompkins Houses in Brooklyn, an officer used a chokehold against § 87(2)(b)	[REDACTED]
AH. Officers	Force: On August 18, 2019, in the vicinity of the Tompkins Houses in Brooklyn, officers used physical force against § 87(2)(b)	[REDACTED]
AI. An officer	Discourtesy: On August 18, 2019, in the vicinity of the Tompkins Houses in Brooklyn, an officer spoke courteously to § 87(2)(b)	[REDACTED]
AJ. POM Kevin Lynch	Force: On August 18, 2019, in the vicinity of the Tompkins Houses in Brooklyn, Police Officer Kevin Lynch used physical force against § 87(2)(b)	[REDACTED]
AK. Officers	Force: On August 18, 2019, in the vicinity of the Tompkins Houses in Brooklyn, officers used physical force against § 87(2)(b)	[REDACTED]
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	[REDACTED]
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	[REDACTED]
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	[REDACTED]
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	[REDACTED]
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	[REDACTED]

Case Summary

On August 17, 2019, § 87(2)(b) filed this complaint with IAB via telephone. The complaint was received at the CCRB on August 28, 2019. On August 18, 2019, § 87(2)(b) a witness, filed a duplicate of this complaint with IAB via telephone on behalf of her son, § 87(2)(b) and § 87(2)(b) filed a duplicate of this complaint with IAB via telephone on behalf of himself.

On August 17, 2019, at approximately 11:00 p.m., residents of the Marcy Houses in Brooklyn, a NYCHA complex within the confines of the 79th Precinct, were celebrating Family Day, which is an annual event consisting of barbecues and music. § 87(2)(b)

§ 87(2)(b) § 87(2)(b) § 87(2)(b) § 87(2)(b) and at least 200 – possibly more – other civilians were present. As officers attempted to clear the complex once the event concluded, they met resistance from civilians who wished to remain and several 10-85s (requests for additional units) and 10-13s (officers need assistance) were put over the radio in and around the area of the Marcy Houses, resulting in a very large police presence, including the arrivals of Sergeant Jhonnatan Sanchez-Pena, Sergeant Robert Beierle, Sergeant Alex Ramos, Sergeant Michael Kreismer, Police Officer Ruben Felipe-Cardenas, Police Officer John Brennan, Police Officer Dijen Roy, Police Officer Christopher Francis, Police Officer Kevin Lynch, Police Officer Joseph Cassar, all of PSA 3, and Police Officer Nicholas Hom of the 79th Precinct. An officer interfered with § 87(2)(b) use of a recording device (**Allegation A: Abuse of Authority**, § 87(2)(g)). An officer pushed § 87(2)(b) to the ground and officers kicked § 87(2)(b) (**Allegations B and C: Force**, § 87(2)(g)). Officers used pepper spray against § 87(2)(b) and other identified individuals (**Allegations D – I: Force**, § 87(2)(g)). Sgt. Beierle pepper sprayed § 87(2)(b) (**Allegation J: Force**, § 87(2)(g)). Sgt. Sanchez-Pena told § 87(2)(b) “I will fucking tase you. Get the fuck out of here,” and pointed his taser at § 87(2)(b) (**Allegation K: Discourtesy**, § 87(2)(g)) and **Allegation L: Abuse of Authority**, § 87(2)(g)). An officer pushed § 87(2)(b) and punched him in the face (**Allegations M and N: Force**, § 87(2)(g)). An officer allegedly punched § 87(2)(b) in the head and also allegedly punched § 87(2)(b) (**Allegations O and P: Force**, § 87(2)(g)). Officers allegedly knocked § 87(2)(b) to the ground and trampled over her (**Allegation Q: Force**, § 87(2)(g)). Officers allegedly pushed § 87(2)(b) to the ground (**Allegation R: Force**, § 87(2)(g)). Sgt. Ramos and other unidentified officers used a forcible takedown against § 87(2)(b) (**Allegation S: Force**, § 87(2)(g)) and **Allegation T: Force**, § 87(2)(g)). Officers allegedly punched § 87(2)(b) in the face and kicked him about his body (**Allegations U and V: Force**, § 87(2)(g)). After § 87(2)(b) was arrested, officers allegedly pushed him into the backset of a police van (**Allegation W: Force**, § 87(2)(g)). After § 87(2)(b) was arrested, officers allegedly pushed § 87(2)(b) into the backseat of a police vehicle (**Allegation X: Force**, § 87(2)(g)). At the 79th Precinct stationhouse in Brooklyn, an officer allegedly failed to obtain medical treatment for § 87(2)(b) (**Allegation Y: Abuse of Authority**, § 87(2)(g)). Officers used physical force against unidentified individuals (**Allegation Z: Force**, § 87(2)(g)).

On August 18, 2019, at approximately 1:10 a.m., officers began responding to calls for assistance at the nearby Tompkins Houses in Brooklyn, another NYCHA complex, approximately one block away from the Marcy Houses, where § 87(2)(b)

§ 87(2)(b) and numerous others were celebrating Tompkins Day. Sgt. Kreismer said, “Lock her the fuck up” in reference to § 87(2)(b) and allegedly said, “Back the fuck up or I’m going to fuck you up (**Allegation AA: Discourtesy**, § 87(2)(g)) and **Allegation AB: Abuse of Authority**, § 87(2)(g)). Sgt. Kreismer told § 87(2)(b) “You threatened me for the last time, bitch” (**Allegation AC: Offensive Language**, § 87(2)(g)) and **Allegation AD: Discourtesy**, § 87(2)(g)). An officer allegedly used pepper spray against § 87(2)(b) and

§ 87(2)(b) (Allegations AE and AF: Force, § 87(2)(g) An officer allegedly placed § 87(2)(b) into a chokehold and pushed him (Allegations AG and AH: Force, § 87(2)(g) § 87(2)(b) An officer allegedly told § 87(2)(b) "Get the fuck out" (Allegation AI: Courtesy, § 87(2)(g) PO Lynch and unidentified officers used a forcible takedown against § 87(2)(b) (Allegations AJ: Force, § 87(2)(g) and Allegation AK: Force, § 87(2)(g)

§ 87(2)(g), § 87(4-b)

§ 87(2)(b) and § 87(2)(b) were arrested and released with a criminal court summons for disorderly conduct (BR 89-91). § 87(2)(b) was arrested and issued a criminal court summons for unlawful possession of marijuana (BR 92). [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b) was arrested for menacing a police officer, criminal possession of a weapon in the third degree, obstructing governmental administration, criminal possession of a weapon in the fourth degree, and disorderly conduct (BR 93). § 87(2)(b) was arrested for resisting arrest and obstructing governmental administration (BR 94). [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Due to the press coverage this incident received in the § 87(2)(b) and § 87(2)(b) the case was marked as sensitive (BR 87-88).

The investigation received 65 body-worn camera videos and cellphone video footage, the relevant aspects of which will be discussed below. The investigation also received NYCHA footage, which did not capture any of the aforementioned allegations.

Findings and Recommendations

Allegation (A) Abuse of Authority: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, an officer interfered with § 87(2)(b) use of a recording device.

Allegation (B) Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, an officer used physical force against § 87(2)(b)

Allegation (C) Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, officers used physical force against § 87(2)(b)

During a telephone statement, § 87(2)(b) (BR 01) said that approximately 100 people were celebrating Family Day within a playground near the Marcy Houses. Police officers instructed people to leave the park and as such, civilians began walking on Marcy Avenue. As § 87(2)(b) started to film the arrest of an unknown individual, a male officer, who § 87(2)(b) described as 6' with a "strong" build, wearing a New York Knicks Jersey and hat, knocked § 87(2)(b) phone out of his hand and pushed him to the ground. § 87(2)(b) felt officers kicking him about his body before other civilians lifted § 87(2)(b) off the ground.

§ 87(2)(b) became uncooperative with the investigation and failed to appear for three interviews.

The investigation received negative results for a TRI prepared for § 87(2)(b) (BR 02).

The investigation spoke with § 87(2)(b) § 87(2)(b) § 87(2)(b) who provided several videos that were posted to public social media pages. One such video, posted to § 87(2)(b) Facebook page, captured the officer wearing a New York Knicks jersey (<<00:08 – 00:16>>) (BR 03).

PO Felipe-Cardenas (BR 24), Sgt. Sanchez-Pena (BR 12), PO Roy (BR 11), PO Lynch (BR 10), Sgt. Kreismer (BR 25), and PO Hom (BR 23) all reviewed the video, which captures the officer wearing a New York Knicks jersey, but none of the aforementioned officers were able to identify the officer.

The investigation received 65 body-worn camera videos related to this incident. Many of the videos capture physical encounters between officers and civilians. However, due to the number of officers and civilians present, as well as an absence of identifying information for § 87(2)(b) the investigation could not determine whether these videos captured § 87(2)(b) interaction with the officer. Further, the investigation was unable to determine the identity of the officer, as none of the officers interviewed were able to identify him. § 87(2)(g)

Allegation (D) Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, officers used pepper spray against § 87(2)(b)

Allegation (E) Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, officers used pepper spray against § 87(2)(b)

Allegation (F) Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, officers used pepper spray against § 87(2)(b)

Allegation (G) Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, officers used pepper spray against § 87(2)(b)

Allegation (H) Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, officers used pepper spray against § 87(2)(b)

Allegation (I) Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, officers used pepper spray against individuals.

According to § 87(2)(b) approximately two seconds after civilians lifted him off the ground, § 87(2)(b) was maced but he could not describe the officers who maced him.

§ 87(2)(b) (BR 04), a friend of § 87(2)(b) said during his telephone statement that during the course of § 87(2)(b) arrest, § 87(2)(b) tried to speak with one of the officers, whom he described as a captain, about § 87(2)(b) arrest. The officer instructed § 87(2)(b) to get back and § 87(2)(b) complied. Approximately two minutes later, an officer, only described as an Indian male, removed his pepper spray and sprayed § 87(2)(b) and several other individuals in the face.

§ 87(2)(b) missed two scheduled interviews and was thus uncooperative with the investigation.

§ 87(2)(b) (BR 05), a witness, said that officers began instructing people to leave the area and began pushing people to the ground. Officers also maced the crowd, including two of her cousins, § 87(2)(b) and § 87(2)(b) said she did not have contact information for § 87(2)(b) and § 87(2)(b)

§ 87(2)(b) (BR 06) said that he was pepper sprayed and arrested during the incident, but wanted to obtain an attorney before speaking further. § 87(2)(b) was not responsive to subsequent contact attempts.

An Instagram video, provided by § 87(2)(b) shows a group of approximately seven civilians near a bodega, at least one of which is using milk to wash out his eyes after being pepper sprayed (<<01:10 – 01:49>>) (BR 07).

PO Roy's body-worn camera footage (BR 08-09) captures a large group of civilians and officers scattered throughout the street and sidewalk. PO Roy and other officers instruct the crowd to back up, though receive minimal compliance. A uniformed sergeant (identified by chevrons on the sleeve of his/her uniform) sprays pepper spray toward the crowd. Only the sergeant's right arm is visible and thus he or she is not identifiable from the video. The crowd then disperses (<<01:39 – 02:07>>). No other footage captures a deployment of pepper spray.

PO Lynch testified that he saw an officer, whose identity he could not remember, deploy pepper spray into the crowd, but PO Lynch did not remember what the crowd was doing at the time of the deployment. PO Roy and Sgt. Sanchez-Pena did not remember seeing any officer deploy pepper spray during the incident. PO Francis (BR 13) and PO Sandres (BR 14) denied seeing any officers deploy pepper spray.

The investigation received one TRI prepared by Sgt. Beierle for pepper spray used against § 87(2)(b) (see Allegation J), but the TRI was solely prepared for § 87(2)(b) and not additional individuals.

As PO Roy's body-worn camera footage only captured the arm of the sergeant who deployed the pepper spray, no documentation was prepared in regard, and PO Lynch was the only officer who independently remembered the deployment of pepper spray but could not remember the identity of the officer who did so. § 87(2)(g)

Allegation (J) Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, Sergeant Robert Beierle used pepper spray against § 87(2)(b)

§ 87(2)(b) declined to participate in this investigation.

According to a TRI Sgt. Beierle prepared for § 87(2)(b) Sgt. Beierle used pepper spray against § 87(2)(b) in defense of himself and other officers, and to overcome § 87(2)(b) resistance/aggression (BR 15).

Of the 65 body-worn camera videos the investigation received regarding this incident, none belonged to Sgt. Beierle.

§ 87(2)(g)

Allegation (K) Discourtesy: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, Sergeant Jhonnatan Sanchez-Pena spoke discourteously to § 87(2)(b)

Allegation (L) Abuse of Authority: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, Sergeant Jhonnatan Sanchez-Pena threatened § 87(2)(b) with the use of force.

§ 87(2)(b) civil attorney, § 87(2)(b) declined to make § 87(2)(b) available for an interview.

Sgt. Sanchez-Pena's body-worn camera footage (BR 17, 09) begins with a large group of uniformed and plainclothes officers instructing individuals to get back. As the officers approach § 87(2)(b) who is wearing a red, yellow, and green tank top, Sgt. Sanchez-Pena points his taser at § 87(2)(b) and says, "I will fucking tase you. Get the fuck out of here," while other officers instruct § 87(2)(b) to back up. § 87(2)(b) does not move from the area. Sgt. Sanchez-Pena says, "Go ahead. Get the fuck out of here" to which § 87(2)(b) responds, "Ya'll bugging the fuck out." Sgt. Sanchez-Pena then lightly pushes § 87(2)(b) on his chest causing § 87(2)(b) to take approximately one step backward. Sgt. Sanchez-Pena says, "Keep it moving" (<<00:00 – 00:15>>).

Sgt. Sanchez-Pena testified that he responded to a radio run requesting additional units to the corner of Martin Luther King Jr. Place and Marcy Avenue. Upon his arrival, approximately 150 to 250 civilians were at the location physically fighting, drinking alcohol, smoking, and playing music. Sgt. Sanchez-Pena attempted to disperse the crowd by instructing people to leave the area. As he did so, § 87(2)(b) threw a bottle in Sgt. Sanchez-Pena's direction. Sgt. Sanchez-Pena instructed § 87(2)(b) to leave, but he refused to do so making statements such as, "I'm not leaving. I'm not getting out of here," and verbally threatened to "fight" and "punch" Sgt. Sanchez-Pena, as well as clenched his fists. Sgt. Sanchez-Pena then displayed his taser, using a red laser warning, to § 87(2)(b) as Sgt. Sanchez-Pena learned in training that the red laser warning could be used to show individuals that they will be tased if they keep showing aggression or refusing verbal commands. Sgt. Sanchez-Pena did not remove his taser for any other reason.

After reviewing his body-worn camera footage, Sgt. Sanchez-Pena confirmed that § 87(2)(b) was the individual who threw the bottle at him, which he said occurred before he activated his body-worn camera, as his body-worn camera had previously fallen off. Sgt. Sanchez-Pena recalled the following details: Approximately three minutes before Sgt. Sanchez-Pena activated his body-

worn camera, § 87(2)(b) was physically fighting with two other males and when Sgt. Sanchez-Pena attempted to break up the fight, § 87(2)(b) threw an empty alcohol bottle in Sgt. Sanchez-Pena's direction. When Sgt. Sanchez-Pena instructed § 87(2)(b) to leave, § 87(2)(b) said, "I'm not going nowhere. If you keep telling me to get back, I'm going to fuck you up." Sgt. Sanchez-Pena said, "I will fucking tase you. Get the fuck out of here" because Sgt. Sanchez-Pena was attempting to get § 87(2)(b) to comply with his orders to leave.

A conducted electrical weapon (CEW) should only be used against persons who are actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or other person(s) actually present. Active aggression is defined as a threat or overt act of an assault (through physical or verbal means), coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent. NYPD Patrol Guide Procedure 221-08 (BR 18).

While police officers are held to a high standard of conduct, traditional rules of etiquette cannot be applied to stressful enforcement situations. Disciplinary Case 2013-10143 (BR 19).

Officers are permitted to use profanity in the context of a dynamic situation over which officers are still attempting to gain control. Disciplinary Case 2015-15012 (BR 20).

§ 87(2)(g)
[REDACTED] the incident was stressful due to the presence of a large crowd at the location, of which officers were still attempting to gain control. Further, Sgt. Sanchez-Pena's statement, "Get the fuck out of here," was embedded in a command § 87(2)(g)
[REDACTED]

[REDACTED]
At issue then is whether Sgt. Sanchez-Pena was justified in pointing his taser at § 87(2)(b) and telling § 87(2)(b) he would tase him. As the investigation could not obtain a statement from § 87(2)(b) and there is no body-worn camera video or other video that corroborates Sgt. Sanchez-Pena's testimony about § 87(2)(b) throwing a bottle in his direction minutes before Sgt. Sanchez-Pena pointed his taser at § 87(2)(b) § 87(2)(g)
[REDACTED]

Allegation (M) Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, an officer used physical force against § 87(2)(b)

Allegation (N) Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, an officer used physical force against § 87(2)(b)

As mentioned above, § 87(2)(b) declined to make § 87(2)(b) available for a statement. According to a press article in the § 87(2)(b) § 87(2)(b) suffered a fractured jaw during the incident. In Sgt. Sanchez-Pena's body-worn camera footage, after Sgt. Sanchez-Pena threatens to tase § 87(2)(b) and instructs § 87(2)(b) to leave the area, a plainclothes officer enters from the right side of the frame and pushes § 87(2)(b) on his chest, causing § 87(2)(b) to take several steps backward. Sgt. Sanchez-Pena is behind the plainclothes officer and § 87(2)(b) at the time, and thus the plainclothes officer's face is not visible. § 87(2)(b) screams, "For what?" and takes a step toward the officer. The officer pushes § 87(2)(b) two more times on his chest before punching § 87(2)(b) with his right hand in the face. § 87(2)(b) then falls to the ground while officers surround him. Sgt. Kreismer says, "Enough," repeatedly (<<00:31 – 00:41>>).

The investigation received negative results for a TRI for § 87(2)(b) (BR 02). PO Francis prepared a Medical Treatment of Prisoner Report for § 87(2)(b) which noted that § 87(2)(b) sustained minor scratches to his shoulder and face "prior to police contact" (BR 21). § 87(2)(b) was transported to § 87(2)(b) in regard.

PO Francis testified that he did not use any physical force against any individuals, nor did he witness any other officer do so. PO Francis did not recall assisting with any arrests. At the 79th Precinct stationhouse, an unidentified desk officer assigned § 87(2)(b) arrest to PO Francis. PO Francis reviewed the MTPR he prepared for § 87(2)(b) and testified that he thought § 87(2)(b) had a

"scar on his face," which was why he noted an injury in the remarks section of the report. PO Francis reviewed Sgt. Sanchez-Pena's body-worn camera footage and said that he did not observe § 87(2)(b) arrest on scene. PO Francis could not identify any of the officers depicted in the footage.

Sgt. Sanchez-Pena, Sgt. Ramos (BR 22), PO Lynch, PO Hom, and PO Roy could not identify any of the officers involved in § 87(2)(b) apprehension. PO Felipe-Cardenas recognized himself in the footage, approximately 20 feet away from § 87(2)(b) but did not independently recall witnessing § 87(2)(b) arrest. PO Felipe-Cardenas could not identify any of the officers involved in § 87(2)(b) apprehension.

Sgt. Kreismer reviewed the footage and identified himself as the officer in the middle right of the screen with his back to the camera (<<00:27>>). Sgt. Kreismer explained that the video clip looked like the area in which § 87(2)(b) had thrown a bottle, but he did not know if § 87(2)(b) was the person that threw the bottle. Sgt. Kreismer identified his voice as the voice saying, "Enough," but he was unable to identify any of the additional officers in the footage.

The investigation could not identify the officer who pushed and punched § 87(2)(b) for the following reasons: (1) the investigation could not obtain a statement from § 87(2)(b) and therefore a description of the subject officer; (2) the investigation received negative results for a TRI for § 87(2)(b); (3) PO Francis was assigned § 87(2)(b) arrest though did not participate in § 87(2)(b) apprehension; and (4) the officer's face was not visible in Sgt. Sanchez-Pena's body-worn camera footage; and (5) none of the officers interviewed could identify the officer that pushed and punched § 87(2)(b) as depicted on Sgt. Sanchez-Pena's body-worn camera footage. § 87(2)(g)

Allegation (O) Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, an officer used physical force against § 87(2)(b)

§ 87(2)(b) failed to make § 87(2)(b) available for an interview. According to a news article in the § 87(2)(b) § 87(2)(b) alleged that she was recording her nephew, § 87(2)(b) while he was handcuffed in a police van. § 87(2)(b) alleged she was punched in the head from behind and knocked down during the Family Day celebration resulting in a laceration to her head, which required five staples to close.

In PO Francois' body-worn camera footage (BR 26, 09), PO Francois stands near a police van when a female begins to scream. PO Francois approaches § 87(2)(b) who is on the ground surrounded by other women. § 87(2)(b) is holding her head and individuals inform PO Francois that § 87(2)(b) was hit with a bottle. Another officer standing near § 87(2)(b) call an ambulance for § 87(2)(b) (<<00:47 – 02:01>>). PO Francois' body-worn camera footage does not show what happened to cause § 87(2)(b) to fall to the ground.

The investigation received negative results for a TRI prepared for § 87(2)(b) (BR 02).

Because PO Francois' body-worn camera footage captures individuals around § 87(2)(b) stating she was hit by a bottle, there is evidence to suggest that § 87(2)(b) head injury was sustained when she was hit with a bottle. However, PO Francois' body-worn camera footage does not show what caused § 87(2)(b) to land on the ground and therefore the investigation cannot determine if force was used against § 87(2)(b) prior to her landing on the ground. As no documentation exists of force used against § 87(2)(b) and § 87(2)(b) did not provide a statement, the investigation could not identify the officer who allegedly used physical force against her. § 87(2)(g)

Allegation (P) Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, an officer used physical force against § 87(2)(b)

§ 87(2)(b) failed to make § 87(2)(b) available for an interview. According to the news article in the § 87(2)(b) § 87(2)(b) alleged that officers punched him at the Marcy Houses while he was handcuffed in a van. § 87(2)(b) alleged that he suffered a torn rotator cuff during the incident.

In PO Francis' body-worn camera footage (BR 27, 09), PO Francis moves toward § 87(2)(b) who is wearing pink shorts and a white shirt. PO Francis' body-worn camera footage becomes shaky, presumably due to a struggle that is occurring. PO Francis', other officers', and § 87(2)(b) actions are not visible in the footage. A voice tells § 87(2)(b) "Turn around" and, "Turn the fuck around." (<<0:18 – 01:21>>). The footage then ends as PO Francis walks § 87(2)(b) toward an unmarked van.

In PO Sandres' body-worn camera footage (BR 28, 09), PO Sandres stands with § 87(2)(b) inside the 79th Precinct stationhouse. § 87(2)(b) tells PO Sandres that officers "bang[ed] [his] head on a gate" for no reason. PO Sandres tells § 87(2)(b) that he was not present during his arrest. § 87(2)(b) does not appear to have any injuries (<<02:30 – 02:40>>).

PO Francis did not recall participating in any arrests while on scene and only remembered assisting in the transport of prisoners. PO Francis reviewed his body-worn camera footage of § 87(2)(b) arrest, but the footage did not refresh PO Francis' recollection of the incident. PO Francis did not know who was being arrested and did not recognize the voice stating, "Turn the fuck around." PO Francis denied using any physical force against anyone during the incident.

As § 87(2)(b) did not participate in the investigation, PO Francis' body-worn camera footage does not clear capture officers' actions during § 87(2)(b) arrest, and PO Francis could not identify the voice of the officer giving § 87(2)(b) commands. § 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Allegation (Q) Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, officers used physical force against § 87(2)(b)

In her telephone statement, § 87(2)(b) (BR 29) said that she was walking when she heard approximately seven to eight officers from the 79th Precinct run behind her to "go after" another individual. The officers knocked § 87(2)(b) to the ground and "trampled" over her with their feet. § 87(2)(b) landed on the ground face-first and the officers' feet made contact with her right knee and lower right side of her back. § 87(2)(b) went to § 87(2)(b) from the scene and obtained a knee brace and pain medication at the hospital.

§ 87(2)(b) proceeded to miss two interviews to provide a sworn statement and became uncooperative with the investigation.

According to the EVENT corresponding to § 87(2)(b) 911 call (BR 30), § 87(2)(b) reported that a police officer broke her leg when they were chasing after people. § 87(2)(b) could not provide the name of the specific officer that broke her leg or describe the officer.

Of the 65 body-worn camera videos the investigation received, none capture the allegations brought by § 87(2)(b).

A TRI was prepared for § 87(2)(b) but lists the "Reporting MOS Information" as unknown. The "Actions Taken by MOS" section notes: "unknown officer did push an uninvolved civilian aside while pursuing a perpetrator on foot" (BR 31).

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Allegation (R) Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, officers used physical force against § 87(2)(b)

§ 87(2)(b) said during her telephone statement that after officers deployed mace into the crowd, three officers, described as a black male, Hispanic male, and male wearing a jersey, pushed § 87(2)(b) cousin, § 87(2)(b) to the ground while she was walking by. § 87(2)(b) telephone statement was disconnected while the undersigned was attempting to obtain more information regarding § 87(2)(b) interaction with officers. § 87(2)(b) did not respond to subsequent contact attempts, save for one, in which she said she was at work and could not speak at

the time of the call. The investigation therefore was unable to obtain contact information for § 87(2)(b).

Similar to other allegations discussed above, the investigation received 65 body-worn camera videos, none of which appears to capture the allegations raised by § 87(2)(b) on behalf of § 87(2)(b).

Due to the number of officers present that could potentially match the description § 87(2)(b) provided, and because none of the body-worn camera videos the investigation received clearly capture force as described by § 87(2)(b), the investigation could not determine the identity of the officers who allegedly pushed § 87(2)(b) § 87(2)(g) § 87(2)(b).

Allegation (S) Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, Sergeant Alex Ramos used physical force against § 87(2)(b)

§ 87(2)(b) (BR 32) testified that he, his friend, § 87(2)(b) and his cousin, § 87(2)(b) were at the intersection of Marcy Avenue and Martin Luther King Jr. Place in Brooklyn, when three officers exited an unmarked vehicle and placed § 87(2)(b) into handcuffs. § 87(2)(b) who was standing approximately five to six feet away, asked the officers what was going on and if he could take § 87(2)(b) personal belongings, but the officers did not respond to § 87(2)(b). As § 87(2)(b) continued to try to speak with the officers, a uniformed male officer who § 87(2)(b) could not further describe, pushed § 87(2)(b) off the sidewalk into the middle of the street, causing § 87(2)(b) to do a “flip” to avoid landing on the ground. § 87(2)(b) could not describe what he meant by “flip,” and landed on his left elbow on the ground. When § 87(2)(b) got off the ground, two uniformed male officers lifted § 87(2)(b) into the air from behind so that his feet were completely off the ground and slammed him down to the street. § 87(2)(b) landed on his stomach.

Sgt. Ramos’ body-worn camera does not capture § 87(2)(b) arrest and only captures the arrest of an unidentified individual in a different area of the Marcy Houses than where § 87(2)(b) was arrested.

Sgt. Ramos testified that he saw § 87(2)(b) running from unidentified officers from the 79th Precinct in Sgt. Ramos’ direction. Sgt. Ramos grabbed § 87(2)(b) and fell to the ground, which was both an intentional action and a result of § 87(2)(b) momentum from running. § 87(2)(b) fell to the ground face first and moved his arms to prevent officers from handcuffing him. After approximately one to two minutes, officers from the 79th Precinct grabbed § 87(2)(b) arms and handcuffed him, though Sgt. Ramos could not further describe how the officers were able to gain control of § 87(2)(b) hands. Sgt. Ramos stated that he suffered a torn LCL in his knee during the incident.

PO Felipe-Cardenas’ body-worn camera footage (BR 33, 09) begins with PO Felipe-Cardenas parking his vehicle. Upon exiting, several civilians and officers are in the area.

§ 87(2)(b) wearing a white t-shirt, known to the investigation as § 87(2)(b) enters the street from the right side of the screen. § 87(2)(b) appears to have a collision with a uniformed officer, who is also in the street. For several seconds, PO Felipe-Cardenas’ body-worn camera footage becomes too blurry to determine what is occurring. When the audio component activates, § 87(2)(b) says, “I didn’t do nothing, man” (<<00:09 – 00:31>>).

PO Felipe-Cardenas testified that he and Sgt. Ramos responded to a request for additional units at Martin Luther King Jr. Place and Marcy Avenue, where there were approximately 200 civilians and 75 officers present. As the officers approached the intersection in their vehicle, Sgt. Ramos immediately exited and began running on Martin Luther King Jr. Place. PO Felipe-Cardenas parked their vehicle of Marcy Avenue, exited, and made a right onto Martin Luther King Jr. Place. Approximately eight to 10 uniformed officers were pursuing § 87(2)(b). Sgt. Ramos, who was approximately 10 to 15 feet away from PO Felipe-Cardenas, attempted to grab § 87(2)(b) near his upper body, but was unsuccessful and snapped a tendon in his right knee. § 87(2)(b) ran directly into PO Felipe-Cardenas, causing PO Felipe-Cardenas to then fall to the ground and his glasses to

fall off.

The investigation received negative results for a TRI for § 87(2)(b) (BR 34).

Although Sgt. Ramos testified that he intentionally took § 87(2)(b) to the ground as he saw other officers chasing § 87(2)(b) the investigation could not determine what caused the unidentified officers to pursue § 87(2)(b) § 87(2)(g)

Allegation (T) Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, officers used physical force against § 87(2)(b)

Allegation (U) Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, officers used physical force against § 87(2)(b)

Allegation (V) Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, officers used physical force against § 87(2)(b)

Allegation (W) Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, officers used physical force against § 87(2)(b)

§ 87(2)(b) testified that after he was slammed to the ground by the two uniformed officers, approximately two to three officers punched him in the face and kicked him in the leg multiple times. § 87(2)(b) moved his head to avoid being punched but otherwise did not do anything physically while on the ground and had his hands behind his back. After approximately five seconds, the officers handcuffed § 87(2)(b). Officers then walked § 87(2)(b) to a marked van parked across the street. § 87(2)(b) was not sure if the officers who walked him to the van were the same officers who arrested him. Once at the van, the officers pushed § 87(2)(b) into the van face-first, causing him to land on the seat of the van. § 87(2)(b) suffered a “knot” and bruise to his forehead, which caused head pain, as well as a contusion to his right though.

§ 87(2)(b) § 87(2)(b) went to § 87(2)(b) to seek treatment. § 87(2)(b) complained that he was beaten by police, injured his leg, and had a headache. § 87(2)(b) suffered a contusion on his right thigh, but x-rays confirmed that there were no fractures or breaks to his right femur (see medical records).

As mentioned above, PO Felipe-Cardenas’ first body-worn camera video begins with PO Felipe-Cardenas parking his vehicle. Upon exiting, several civilians and officers are in the area.

§ 87(2)(b) wearing a white t-shirt, known to the investigation as § 87(2)(b) enters the street from the right side of the screen. § 87(2)(b) appears to have a collision with a uniformed officer, who is also in the street. PO Felipe-Cardenas’ body-worn camera footage becomes too blurry to determine what is occurring. When the audio component activates, § 87(2)(b) says, “I didn’t do nothing, man” (<<00:09 – 00:31>>).

In PO Felipe-Cardenas’ second body-worn camera video (BR 35, 09), the video begins with a black screen and § 87(2)(b) saying, “Ya’ll got it,” repeatedly. A voice says, “Give me your fucking hands,” repeatedly. The screen is mostly black with occasional flashes of red, likely due to turret lights in the area (<<00:00 – 00:29>>). At the 00:30 mark of the video, § 87(2)(b) is visible face down on the ground. A uniformed officer with a bald head stands to § 87(2)(b) left. § 87(2)(b) who is not visible, says, “I didn’t do shit. Ya’ll be punching me in my face” (<<00:30 – 00:50>>).

In PO Brennan’s body-worn camera video (BR 36, 09), the footage begins with § 87(2)(b) face down on the ground (<<00:00 – 00:03>>). PO Brennan lifts § 87(2)(b) off the ground and walks him toward a marked police vehicle. (<<00:49 – 02:06>>). PO Brennan’s attention is then drawn away from § 87(2)(b) and toward the crowd and he instructs people to back up. Two Black male officers in uniform, whose backs are largely toward the camera, are near the doors of the van. When PO Brennan turns back to the van, § 87(2)(b) is already in the van, and is no longer visible. § 87(2)(b) says, “Ya’ll bugging” multiple times (<<02:06 – 02:28>>).

PO Felipe-Cardenas testified that when § 87(2)(b) ran into him, PO Felipe-Cardenas

landed on his back and § 87(2)(b) landed on top of him. Approximately three to four uniformed officers, who were initially running after § 87(2)(b) moved § 87(2)(b) off PO Felipe-Cardenas and handcuffed him. PO Felipe-Cardenas did not assist with handcuffing § 87(2)(b) and denied punching him in the face or kicking him in the legs, or seeing any other officer do so. PO Felipe-Cardenas did not see officers push § 87(2)(b) into the prisoner van.

Sgt. Ramos denied punching § 87(2)(b) in the face and kicking him in the legs, and denied seeing any other officers take these actions. Sgt. Ramos did not see § 87(2)(b) after he was handcuffed and therefore did not see officers push § 87(2)(b) inside a prisoner van.

PO Brennan (BR 37) testified that his attention was drawn to § 87(2)(b) arrest in particular because he was nearby § 87(2)(b). PO Brennan did not see officers use a forcible takedown against § 87(2)(b) and did not see officers punch § 87(2)(b) in the face or kick him in the leg. PO Brennan did not recall if he assisted with handcuffing § 87(2)(b) and only had a recollection of walking § 87(2)(b) toward the prisoner van. At the prisoner van, PO Brennan performed outside security around the van, instructing individuals to stay on the sidewalk, as they were trying to approach the van and interact with § 87(2)(b).

According to the Command Log from PSA 3 (BR 38), PO Francis was § 87(2)(b) arresting officer and as such, PO Francis was interviewed. PO Francis testified that upon his arrival, he went to the perimeter of the crowd and instructed individuals to get out of the street. PO Francis did not recall participating in any arrests, other than lodging individuals who had been arrested into a van for transport. PO Francis did not recall seeing officers push § 87(2)(b) into a van for transport. At the 79th Precinct stationhouse, an unidentified officer assigned several arrests to PO Francis, but PO Francis did not know why this occurred.

The investigation received negative results for a TRI prepared for § 87(2)(b).

As no police documentation exists of the force used allegedly used against § 87(2)(b) and the body-worn camera the investigation received of § 87(2)(b) arrest does not clearly capture the allegations or the officers involved, the investigation was unable to identify the subject officers of Allegations T – W. § 87(2)(g)

Allegation (X) Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, officers used physical force against § 87(2)(b)

§ 87(2)(b) (BR 39) testified that he was walking on Martin Luther King Jr. Place from Marcy Avenue toward a bus stop on Tompkins Avenue with friends whom he refused to identify. § 87(2)(b) had a bottle of Hennessey in his hand, but denied being intoxicated. PO Hom and an unidentified uniformed officer exited an unmarked vehicle and approached § 87(2)(b). PO Hom emptied the contents of § 87(2)(b) Hennessey bottle, but did not say anything to § 87(2)(b). § 87(2)(b) continued to walk approximately one to two car-lengths when PO Hom approached him against and asked for his identification. Before § 87(2)(b) had the chance to provide it, PO Hom grabbed § 87(2)(b) wrists, instructed him to turn around, and informed him that he was under arrest. PO Hom pulled and twisted § 87(2)(b) wrists behind his back. Additional officers § 87(2)(b) could not describe how many or what the officers looked like) approached the area and escorted § 87(2)(b) to a marked vehicle in the middle of the street. The officers pushed § 87(2)(b) into the vehicle head-first causing § 87(2)(b) to land on his stomach with his feet hanging out of the open door of the vehicle. After less than 10 minutes, the officers then moved § 87(2)(b) to an unmarked vehicle which was behind the marked vehicle with other prisoners, and drove § 87(2)(b) to the 79th Precinct stationhouse.

§ 87(2)(b) went to § 87(2)(b) § 87(2)(b) § 87(2)(b) told medical staff that he was assaulted by police seven hours ago and is experiencing pain in his right and left hands and forearms, and pain to his left shoulder. X-rays were performed of § 87(2)(b) left wrist, left shoulder and right hand, but did not reveal any indication of fracture or dislocation (see medical records).

PO Hom testified that he was at the 79th Precinct stationhouse with an administrative assignment when he received a 10-13 call requesting additional units for crowd control at Marcy Avenue and Myrtle Avenue, which was approximately 10 to 15 blocks away from the stationhouse. Upon PO Hom's arrival, a few hundred people were at the intersection yelling and cursing at officers. § 87(2)(b) was in the crowd with a Hennessey bottle at his feet. PO Hom and other officers instructed the civilians to disperse from the location, but § 87(2)(b) refused to do so and continued to scream and curse at officers. Because § 87(2)(b) refused to leave the location, PO Hom decided to issue him a summons for disorderly conduct – failure to disperse. PO Hom asked § 87(2)(b) for his identification multiple times, but § 87(2)(b) refused to provide it. Because PO Hom could not identify § 87(2)(b) on scene, PO Hom attempted to handcuff § 87(2)(b) to bring him back to the stationhouse for identification. § 87(2)(b) resisted PO Hom by moving his arms up and down to prevent PO Hom from handcuffing him. Eventually, PO Hom was able to successfully handcuff § 87(2)(b) by grabbing his arms, but he did not recall how long the handcuffing process took. After § 87(2)(b) was handcuffed, PO Hom handed § 87(2)(b) to other unidentified officers for transport. PO Hom did not know who the officers were and PO Hom did not see officers place § 87(2)(b) into the vehicle for transport, as he focused his attention back on the crowd.

PO Francis, PO Felipe-Cardenas, Sgt. Ramos, PO Brennan, and PO Roy did not see officers push § 87(2)(b) into the back of a transport vehicle, while Sgt. Sanchez-Pena did not recall seeing officers push § 87(2)(b) into the back of a transport vehicle.

PO Hom did not activate his body-worn camera during the incident. Of the 65 body-worn camera videos the investigation received, none captured officers place § 87(2)(b) into a vehicle for transport or § 87(2)(b) transport itself.

The investigation received negative results for a TRI prepared for § 87(2)(b) (BR 34).

As PO Hom did not know the identity of the officers whom he handed § 87(2)(b) off to after his arrest, body-worn camera video did not capture officers place § 87(2)(b) into a vehicle, and no TRI exists for § 87(2)(b) the investigation could not identify the officers who allegedly pushed § 87(2)(b) into the backseat of a police vehicle. § 87(2)(g)

Allegation (Y) Abuse of Authority: On August 17, 2019, at the 79th Precinct stationhouse in Brooklyn, an officer did not obtain medical treatment for § 87(2)(b)

§ 87(2)(b) testified that in the cell area of the 79th Precinct stationhouse, he asked an officer, whom he could only describe as a slim, tall, Black male in uniform, "Can somebody get me looked at? My wrists are hurting," to which the officer responded, "Give me a minute." § 87(2)(b) never received medical treatment at the stationhouse and went to § 87(2)(b) after his release.

As referenced in Allegation X, § 87(2)(b) went to § 87(2)(b) § 87(2)(b). § 87(2)(b) told medical staff that he was assaulted by police seven hours ago and is experiencing pain in his right and left hands and forearms, and pain to his left shoulder. X-rays were performed of § 87(2)(b) left wrist, left shoulder and right hand, but did not reveal any indication of fracture or dislocation (see medical records).

PO Hom testified that when at the time of his arrival at the stationhouse, § 87(2)(b) was already lodged in a cell. § 87(2)(b) never asked PO Hom for medical attention and PO Hom did not hear § 87(2)(b) ask any other officer for medical attention. PO Hom issued § 87(2)(b) a summons at the stationhouse.

PO Sandres' and PO Cassar's (BR 40, 09) body-worn camera videos capture the processing of prisoners at the 79th Precinct stationhouse. However, none of these videos capture officers processing § 87(2)(b) or speaking with him in the cell area.

The investigation received negative results for a Medical Treatment of Prisoner Report (MTPR) prepared for § 87(2)(b) (BR 41).

As the body-worn camera footage the investigation obtained from officers at the 79th Precinct stationhouse does not capture § 87(2)(b) or any officers conversing with him in the cell area, the investigation could not identify the subject officer of Allegation Y. § 87(2)(g)

Allegation (Z) Force: On August 17, 2019, in the vicinity of the Marcy Houses in Brooklyn, officers used physical force against individuals.

Several civilians made allegations on behalf of individuals they could not identify during these incidents.

§ 87(2)(b) said during his telephone statement that he saw a group of officers grab § 87(2)(b) and push him into a vehicle while trying to arrest the individual in the street. § 87(2)(b) did not know the individual. During his telephone statement, § 87(2)(b) said individuals were “beat up” during the incident, but did not know the names of the individuals. § 87(2)(b) (BR 47) said that the officers in the Knicks jersey, as described above in Allegations A-C, pushed § 87(2)(b) 17-year-old neighbor, whose name he did not know, to the ground between two vehicles. § 87(2)(b) said she observed officers pushing “kids” to the ground and punching them, but she did not know the identity of these individuals. § 87(2)(b) also saw three to four officers, two of which were in plainclothes, pull a woman’s hair and hit her on the ground.

The investigation identified 13 additional witnesses from police documentation as well as from civilian statements, identified as: § 87(2)(b)

§ 87(2)(b) and an unidentified female individual. Contact attempts were made to witnesses, but the investigation was unable to establish contact with them (see IAs for contact attempts).

As mentioned throughout this report, the investigation received 65 body-worn camera videos from this incident. Due to the number of civilians and officers present and the lack of identifying information for the victims of these allegations, the investigation could neither identify the victims nor officers involved in these allegations. § 87(2)(g)

Allegation (AA) Discourtesy: On August 18, 2019, in the vicinity of the Tompkins Houses in Brooklyn, Sergeant Michael Kreismer spoke discourteously to § 87(2)(b)

Allegation (AB) Abuse of Authority: On August 18, 2019, in the vicinity of the Tompkins Houses in Brooklyn, Sergeant Michael Kreismer threatened § 87(2)(b) with the use of force.

Allegation (AC) Offensive Language: On August 18, 2019, in the vicinity of the Tompkins Houses in Brooklyn, Sergeant Michael Kreismer made remarks based upon the gender of § 87(2)(b)

Allegation (AD) Discourtesy: On August 18, 2019, in the vicinity of the Tompkins Houses in Brooklyn, Sergeant Michael Kreismer spoke discourteously to § 87(2)(b)

§ 87(2)(b) (BR 42) testified that she was celebrating Tompkins Day in a park in front of § 87(2)(b) in Brooklyn with approximately 25 other people listening to music. § 87(2)(b) had one mixed drink and was not intoxicated and had no knowledge of anyone else being intoxicated. After approximately one hour, § 87(2)(b) went inside the building to use the bathroom. Upon exiting the building, § 87(2)(b) saw approximately 15 uniformed and plainclothes officers walking toward the building. The officers instructed the group to leave. § 87(2)(b) said, “What about the people that live here?” Sgt. Kreismer said, “Ma’am, back the fuck up or I’m going to fuck you up.” § 87(2)(b) said, “If you touch me, I’m going to mace you.” Sgt. Kreismer repeated, “I’ll fuck you up.” As § 87(2)(b) began walking to her friend’s vehicle, she saw officers arresting her friend, § 87(2)(b) near the back of a police van. § 87(2)(b) moved toward the front of the police van and asked the officers what § 87(2)(b) did. Sgt.

Kreismer said, "Lock this bitch up, too." Four uniformed officers then placed § 87(2)(b) into handcuffs.

In PO Christopher Francis' body-worn camera footage (BR 43, 09), § 87(2)(b) is visible wearing a black tank top and khaki shorts and holding an object in her left hand, though it is difficult to determine what the object is. § 87(2)(b) backs up toward the curb while looking for something in her purse. PO Francis then turns away from § 87(2)(b). The audio component of PO Francis' body-worn camera is not activated at this time (<<00:14 – 00:20>>). Approximately 35 seconds later, § 87(2)(b) is visible at the side of a police van where officers are lodging a prisoner. A voice, identified by the investigation as that of Sgt. Kreismer, says, "Yo, you're going." Sgt. Kreismer is not visible on screen at this time. Sgt. Kreismer continues, "Lock her up. Lock her the fuck up." PO Francis' camera becomes shaky and thus it is difficult to determine what is occurring. § 87(2)(b) says, "I didn't do nothing" to which Sgt. Kreismer, who is not visible, says, "You threatened me for the last time, bitch" (<<00:56 – 01:17>>).

PO Sandres' body-worn camera (BR 44, 09) footage begins with officers handcuffing § 87(2)(b) against a police van. The officers then lodge § 87(2)(b) inside the van. § 87(2)(b) is visible near the doors of the van speaking with a plainclothes female officer wearing a white t-shirt. Sgt. Kreismer enters the frame, points at § 87(2)(b) and says, "Yo, you're going in two seconds." Sgt. Kreismer then grabs § 87(2)(b) right arm and says, "She's going, too. Lock her up." § 87(2)(b) says, "Don't touch me. I didn't do nothing." Sgt. Kreismer, who is no longer visible, says, "You threatened me for the last time, bitch" (<<00:38 – 00:53>>).

Sgt. Kreismer testified that he responded to request for additional units for crowd control in the vicinity of the Marcy Houses in Brooklyn. At the southern side of the complex, ranking officers instructed officers to disperse the area. Sgt. Kreismer and other officers told members of the crowd, of which § 87(2)(b) was a part, to leave the area. § 87(2)(b) appeared visibly intoxicated and told Sgt. Kreismer she was going to mace him in the face, and removed mace from her purse, pointing it at Sgt. Kreismer. Sgt. Kreismer did not recall what he said to § 87(2)(b) in return and did not remember saying, "Back the fuck up or I'm going to fuck you up." Approximately five minutes later, officers began affecting the arrest of another individual, known to the investigation as § 87(2)(b) interfered with the arrest by physically blocking the officers and standing in front of them while trying to arrest § 87(2)(b). Officers then began arresting § 87(2)(b). Sgt. Kreismer did not remember if he participated in § 87(2)(b) arrest and did not believe he instructed any officers to arrest § 87(2)(b). Sgt. Kreismer denied saying, "Lock this bitch up," or using the word "bitch."

Sgt. Kreismer reviewed PO Francis' body-worn camera footage and did not observe himself in the video. Sgt. Kreismer acknowledged hearing the statement, "Lock her the fuck up," and the word, "bitch," but could not identify the voice. When asked if the voice was his own, Sgt. Kreismer said, "I don't think so. It did not sound like me." Sgt. Kreismer similarly reviewed PO Sandres' body-worn camera footage and identified himself in the video, but still could not identify the voice that makes the statements, "Lock her the fuck up" and "bitch."

PO Francis had a limited recollection of this incident. Upon reviewing his body-worn camera footage, PO Francis remembered § 87(2)(b) making a statement about having pepper spray, but PO Francis otherwise did not remember any details regarding § 87(2)(b) arrest and denied independently hearing any officer say, "Back the fuck up" or "I'm going to fuck you up."

PO Sandres testified that when he arrived, officers were already arresting § 87(2)(b) and thus he did not know why she was arrested. PO Sandres did not hear § 87(2)(b) make any statements about pepper spraying officers and did not hear any officer say, "Back the fuck up or I'm going to fuck you up" or call § 87(2)(b) a "bitch." PO Sandres also reviewed his body-worn camera footage, but did not recognize the voice saying, "Lock her the fuck up."

Although Sgt. Kreismer did not believe the voice making the statements, "Lock her the fuck up" and using the word "bitch" as captured on PO Francis' and PO Sandres' body-worn camera videos was his, the investigation determined that this was in fact his voice, as both § 87(2)(b)

§ 87(2)(b) and Sgt. Kreismer provided consistent testimony about § 87(2)(b) threatening to mace Sgt. Kreismer. Further, Sgt. Kreismer identified himself as the plainclothes officer captured in PO Sandres' body-worn camera video who points at § 87(2)(b) and says, "You're going in two seconds," which sounds similar to the voice that makes the statements, "Lock her the fuck up" and uses the word "bitch."

While police officers are held to a high standard of conduct, traditional rules of etiquette cannot be applied to stressful enforcement situations. Disciplinary Case 2013-10143.

Officers are permitted to use profanity in the context of a dynamic situation over which officers are still attempting to gain control. Disciplinary Case 2015-15012.

Officers are prohibited from using discourteous or disrespectful remarks regarding another person's gender. NYPD Administrative Guide Procedure 304-06 (BR 45).

§ 87(2)(g)
§ 87(2)(b) had threatened him with the use of mace, officers were still attempting to gain control of the incident as § 87(2)(b) was not yet arrested, and Sgt. Kreismer's use of profanity was not directed toward § 87(2)(b) but rather a command to other officers. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

KW/CMW/K

Allegation (AE) Force: On August 18, 2019, in the vicinity of the Tompkins Houses in Brooklyn, an officer used pepper spray against § 87(2)(b)

Allegation (AF) Force: On August 18, 2019, in the vicinity of the Tompkins Houses in Brooklyn, an officer used pepper spray against § 87(2)(b)

During a telephone statement, § 87(2)(b) (BR 46) said that she saw officers arrest her friend, whose name § 87(2)(b) refused to provide but the investigation identified as § 87(2)(b) by aggressively grabbing § 87(2)(b) arms. § 87(2)(b) tried to see what was going on with § 87(2)(b) and approximately five uniformed male officers began arresting § 87(2)(b). When § 87(2)(b) tried to ask the officers why they were arresting § 87(2)(b) an officer, who § 87(2)(b) described as a white male with brown hair, 5'7" to 5'8" tall, average build, approximately in his 30s and wearing plainclothes, deployed his pepper spray.

§ 87(2)(b) did not appear for her sworn statement and subsequent contact attempts to reschedule were unsuccessful.

According to an EVENT generated from this incident, § 87(2)(b) called 911 and reported that he was maced by "PO Ward" of PSA 3. § 87(2)(b) did not complain of any other force used against him during this incident.

A search of the CTS+ database returned negative results for any police officers named "Ward" assigned to PSA 3.

In § 87(2)(b) telephone statement, § 87(2)(b) said that he picked up his neighbor, whose name he did not know, off the ground, after four uniformed officers pushed him to the ground. An officer, described as a Black male wearing a New York Knicks jersey, green armband, and backwards hat, grabbed § 87(2)(b) chest and pushed him backward. The officer then immediately maced the crowd.

§ 87(2)(b) failed to appear for his scheduled interview and became uncooperative with the investigation.

As mentioned above in Allegation A - C, PO Felipe-Cardenas, Sgt. Sanchez-Pena, PO Roy,

PO Lynch, Sgt. Kreismer, and PO Hom all reviewed the video provided by § 87(2)(b) which captures an officer wearing a New York Knicks jersey, but none of the aforementioned officers were able to identify the officer. The video does not capture the officer deploy pepper spray.

As mentioned in Allegations D – I, only PO Roy's body-worn camera footage captured an officer deploying pepper spray on August 17, 2019 at 10:58 p.m. However, none of the body-worn camera footage the investigation received from the early morning hours on August 18, 2019, shows an officer using pepper spray. Further, the officers referenced above could not identify the officer in the Knicks jersey as seen on the video § 87(2)(b) provided and no officer by the name of PO Ward was assigned to PSA 3. As the use of pepper spray was not documented and is not captured on body-worn camera video, and the officers could not identify the officer wearing the Knicks jersey, § 87(2)(g)

Allegation (AG) Force: On August 18, 2019, in the vicinity of the Marcy Houses in Brooklyn, an officer used a chokehold against § 87(2)(b)

Allegation (AH) Force: On August 18, 2019, in the vicinity of the Marcy Houses in Brooklyn, an officer used physical force against § 87(2)(b)

Allegation (AI) Discourtesy: On August 18, 2019, in the vicinity of the Marcy Houses in Brooklyn, an officer spoke discourteously to § 87(2)(b)

During his telephone statement, § 87(2)(b) said that after he was pepper sprayed, he walked outside the complex to a nearby bench, holding his head down, as he could not see. An officer, described as a Hispanic male with low cut black hair, 5'6" to 5'7", approximately in his late 20s and in uniform, approached § 87(2)(b) from behind and wrapped both of his arms around § 87(2)(b) neck, in a "chokehold-like position." The officer lifted § 87(2)(b) off the bench and § 87(2)(b) proceeded to get up. The officer then pushed § 87(2)(b) and told him, "Get the fuck out."

§ 87(2)(b) failed to appear for his sworn statement and became uncooperative with the investigation.

The investigation received negative results for a TRI prepared for § 87(2)(b) (BR 99).

As mentioned throughout this report, the investigation received 65 body-worn camera videos, none of which capture any officers using a chokehold against any individual during the incident.

PO Lynch, and Sgt. Kreismer who were still on scene in the early hours of August 18, 2019, did not remember if they saw officers use any physical force against any individuals. PO Lynch specifically did not see any officer use a chokehold. PO Francis, who was also still on scene at this time, did not see any officers use physical force against any individuals.

The investigation determined some aspects of § 87(2)(b) statement to be inconsistent with each other. First, § 87(2)(b) called 911 regarding being maced, but did not mention that a chokehold or any other physical force was used against him. Second, § 87(2)(b) said he could not see due to being pepper sprayed, but was able to give a general physical description of the officer who placed him in a chokehold. However, given the number of civilians and officers on scene during this incident, and the lack of any video footage capturing the allegations as § 87(2)(b) described, the investigation could not identify the subject officer of Allegations AF and AH. § 87(2)(g)

Allegation (AJ) Force: On August 18, 2019, in the vicinity of the Tompkins Houses in Brooklyn, Police Officer Kevin Lynch used physical force against § 87(2)(b)

Allegation (AK) Force: On August 18, 2019, in the vicinity of the Tompkins Houses in Brooklyn, officers used physical force against § 87(2)(b)

§ 87(2)(b) was unavailable to the investigation and thus a statement was not obtained from him.

§ 87(2)(b) said that she saw approximately four uniformed officers arresting § 87(2)(b) near the back of a police van. § 87(2)(b) asked repeatedly, “Why’re y’all arresting me?” § 87(2)(b) did not see the officers struggle to place § 87(2)(b) into handcuffs.

PO Lynch prepared a TRI for § 87(2)(b) (BR 48), which notes that § 87(2)(b) pushed and shoved officers during his arrest. The TRI also notes that PO Lynch used a forcible takedown against § 87(2)(b) in defense of himself, other officers, and to overcome resistance or aggression. No other TRIs were prepared for § 87(2)(b).

PO Lynch, who was § 87(2)(b) arresting officer, testified that he saw § 87(2)(b) sitting on the bumper of a marked police van. PO Lynch and other officers (PO Lynch did not remember who the officers were or how many were present) told § 87(2)(b) to move from the bumper, but § 87(2)(b) refused to do so. PO Lynch and the other officers “assisted” § 87(2)(b) in moving off the van, but PO Lynch could not remember how exactly the officers “assisted” § 87(2)(b). PO Lynch did not remember if he or other officers used physical force to remove § 87(2)(b) from the van. PO Lynch reviewed his TRI, but he could not recall any additional details regarding § 87(2)(b) arrest or the force used against him.

PO Sandres’ body-worn camera footage begins with officers handcuffing § 87(2)(b) against the rear of a marked police van, but does not capture any officers use physical force against § 87(2)(b) (<<00:00 – 00:24>>). No other BWC captures any portion of § 87(2)(b) arrest.

As the investigation could not establish contact with § 87(2)(b) PO Lynch did not activate his body-worn camera and record the arrest, and PO Lynch had a limited recollection of the incident, the investigation could not determine the propriety of PO Lynch using a forcible takedown during § 87(2)(b) arrest. § 87(2)(g)

Additionally, the investigation could not identify the additional officers involved in § 87(2)(b) arrest, as PO Lynch could not identify them and no body-worn camera footage captures the use of force against § 87(2)(b). § 87(2)(g)

§ 87(2)(g), § 87(4-b)



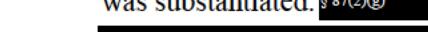
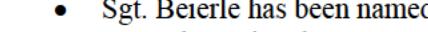
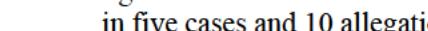
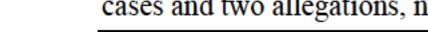
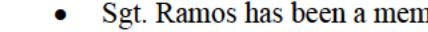
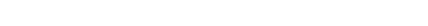
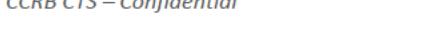
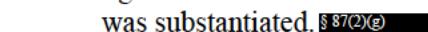
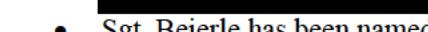
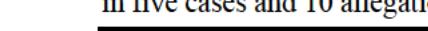
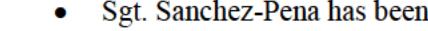
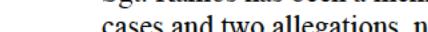
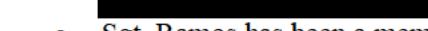
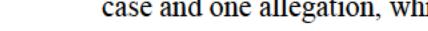
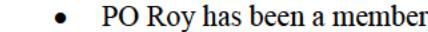
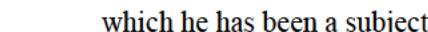
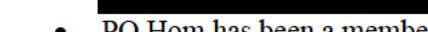
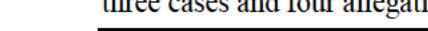
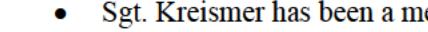
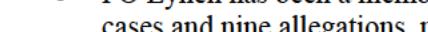
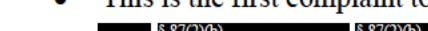
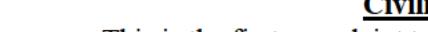
§ 87(2)(g), § 87(4-b)



§ 87(2)(g), § 87(4-b)



§ 87(2)(g), § 87(4-b)

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- This case was not suitable for mediation.
 - § 87(2)(b) filed a Notice of Claim with the City of New York claiming serious injuries to the head, neck, back, and right shoulder; mental anguish and other psychological injuries; fear, anxiety, shame, humiliation, indignity; damage to reputation and credit; loss of earnings capacity and capability; and loss of personal property, and seeking \$5,000,000 as redress (BR 96).
 - § 87(2)(b) filed a Notice of Claim with the City of New York claiming pain and suffering; personal injuries including left wrist, right hand, and left shoulder; and trauma, fear, and anguish and claiming \$5,000,000 as redress (BR 97).
 - § 87(2)(b) filed a Notice of Claim with the City of New York claiming serious injuries to the head, jaw, face, neck, right arm, teeth and other physical injuries including a mandible fracture of the jaw requiring surgery and hardware; mental anguish and other psychological injuries; fear, anxiety, shame, humiliation, indignity; damage to reputation and credit; loss of earnings capacity and capability; and loss of personal property, and seeking \$25,000,000 (BR 98).
 - As of August 10, 2021, the Office of the New York City Comptroller had no record of a Notice of Claim filed by § 87(2)(b)

§ 87(2)(b) [REDACTED] (BR 95).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 14

Investigator: Casey McCann _____ Inv. Casey McCann _____ 09/08/2021
Signature Print Title & Name Date

Squad Leader: Cassandra Fenkel _____ IM Cassandra Fenkel _____ 09/10/2021
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date